

07/12/04

IFW 3627 #

PTO/SB/21 (05-03)

Approved for use through 04/30/2003. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/099,685
	Filing Date	March 14, 2002
	First Named Inventor	Daniel R. Potter et al.
	Art Unit	3627
	Examiner Name	Andrew J. Rudy
Total Number of Pages in This Submission	Attorney Docket Number	005127.00033

ENCLOSURES (check all that apply)					
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input checked="" type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Return Postcard			
<table border="1"><tr><td>Remarks</td><td rowspan="2">The Commissioner is hereby authorized to charge any necessary fees, including any fees under 37 CFR §1.16 or 37 CFR §1.17, to Deposit Account No. 19-0733.</td></tr><tr><td> </td></tr></table>			Remarks	The Commissioner is hereby authorized to charge any necessary fees, including any fees under 37 CFR §1.16 or 37 CFR §1.17, to Deposit Account No. 19-0733.	
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Thomas L. Evans, Banner & Witcoff, Ltd.
Signature	
Date	July 9, 2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail Post Office to Addressee, Label No. EV410135808US, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Thomas L. Evans		
Signature	<i>Thomas L. Evans</i>	Date	July 9, 2004

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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<div>FEE TRANSMITTAL for FY 2004</div> <p>Effective 10/01/2003. Patent fees are subject to annual revision.</p> <p><input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27</p> <p>TOTAL AMOUNT OF PAYMENT (\$) 180</p>		Complete if Known	
		Application Number	10/099,685
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		First Named Inventor	Daniel R. Potter et al.
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METHOD OF PAYMENT (check all that apply)		FEE CALCULATION (continued)																																																																	
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<input checked="" type="checkbox"/> Deposit Account:		<table border="1"><thead><tr><th>Large Entity</th><th>Small Entity</th></tr></thead><tbody><tr><td>Fee Code</td><td>Fee Code</td></tr><tr><td>Fee (\$)</td><td>Fee (\$)</td></tr><tr><td>Fee Description</td><td>Fee Paid</td></tr><tr><td>1051 130</td><td>2051 65</td></tr><tr><td>1052 50</td><td>2052 25</td></tr><tr><td>1053 130</td><td>1053 130</td></tr><tr><td>1812 2,520</td><td>1812 2,520</td></tr><tr><td>1804 920*</td><td>1804 920*</td></tr><tr><td>1805 1,840*</td><td>1805 1,840*</td></tr><tr><td>1251 110</td><td>2251 55</td></tr><tr><td>1252 420</td><td>2252 210</td></tr><tr><td>1253 950</td><td>2253 475</td></tr><tr><td>1254 1,480</td><td>2254 740</td></tr><tr><td>1255 2,010</td><td>2255 1,005</td></tr><tr><td>1401 330</td><td>2401 165</td></tr><tr><td>1402 330</td><td>2402 165</td></tr><tr><td>1403 290</td><td>2403 145</td></tr><tr><td>1451 1,510</td><td>1451 1,510</td></tr><tr><td>1452 110</td><td>2452 55</td></tr><tr><td>1453 1,330</td><td>2453 665</td></tr><tr><td>1501 1,330</td><td>2501 665</td></tr><tr><td>1502 480</td><td>2502 240</td></tr><tr><td>1503 640</td><td>2503 320</td></tr><tr><td>1460 130</td><td>1460 130</td></tr><tr><td>1807 50</td><td>1807 50</td></tr><tr><td>1806 180</td><td>1806 180</td></tr><tr><td>8021 40</td><td>8021 40</td></tr><tr><td>1809 770</td><td>2809 385</td></tr><tr><td>1810 770</td><td>2810 385</td></tr><tr><td>1801 770</td><td>2801 385</td></tr><tr><td>1802 900</td><td>1802 900</td></tr></tbody></table>		Large Entity	Small Entity	Fee Code	Fee Code	Fee (\$)	Fee (\$)	Fee Description	Fee Paid	1051 130	2051 65	1052 50	2052 25	1053 130	1053 130	1812 2,520	1812 2,520	1804 920*	1804 920*	1805 1,840*	1805 1,840*	1251 110	2251 55	1252 420	2252 210	1253 950	2253 475	1254 1,480	2254 740	1255 2,010	2255 1,005	1401 330	2401 165	1402 330	2402 165	1403 290	2403 145	1451 1,510	1451 1,510	1452 110	2452 55	1453 1,330	2453 665	1501 1,330	2501 665	1502 480	2502 240	1503 640	2503 320	1460 130	1460 130	1807 50	1807 50	1806 180	1806 180	8021 40	8021 40	1809 770	2809 385	1810 770	2810 385	1801 770	2801 385	1802 900	1802 900
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The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) during the pendency of this application <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.																																																																			
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SUBMITTED BY		Complete (if applicable)	
Name (Print/Type)	Thomas L. Evans	Registration No. (Attorney/Agent)	35,805
Signature	<i>Thomas L. Evans</i>	Telephone	202-824-3000
		Date	July 9, 2004

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Atty. Docket No.
005127.00033



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of:

Daniel R. POTTER ET AL.

Serial No.: 10/099,685

Filed: March 14, 2002

Examiner: Andrew J. Rudy

Group Art Unit: 3627

For: CUSTOM FIT SALE OF FOOTWEAR

INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to their duty of disclosure under 37 C.F.R. §1.56, Applicants bring the following documents to the attention of the Examiner in the above-identified patent application:

- (1) U.S. Patent No. 4,800,657 to Brown, issued January 31, 1989;
- (2) U.S. Patent No. 5,206,804 to Theis et al., issued April 27, 1993;
- (3) U.S. Patent No. 5,361,133 to Brown et al., issued November 1, 1994;
- (4) U.S. Patent No. 5,500,802 to Morris et al., issued March 19, 1996;
- (5) U.S. Patent No. 6,449,878 B1 to Lyden, issued September 17, 2002;
- (6) U.S. Patent No. 6,519,876 B1 to Geer et al., issued February 18, 2003;
- (7) "Custom Fit Footwear," www.digitoe.com, 1984-Present Digitoe, Inc.;
- (8) "Nikexpress Direct Sales Over the Internet Expected to Reach 30% of Total Athletic Footwear Sales by Year 2003," The New York Times, September 23, 1999;
- (9) customatix.com, shoes designed by you, *u.s. mens measuring machine* (date unknown, but prior to filing of this application); and

- (10) customatix.com, shoes designed by you, *u.s. womens measuring machine* (date unknown, but prior to filing of this application).

A PTO-1449 form is included herewith listing these documents, and a copy of each of these documents is attached.

Since Official Actions have issued for this application, Applicants also submit herewith the fee in the amount of \$180 in accordance with 37 C.F.R. §1.97(e)(2), to be charged to Deposit Account No. 19-0733. If the Commissioner deems that any additional fees are necessary for the filing of this Information Disclosure Statement, then the Commissioner is authorized to charge such additional fees to said Deposit Account.

Applicants respectfully ask that the documents listed above be considered by the Examiner in the above-identified patent application and that they be made officially of record therein. It is further requested that a listing of the same appear on the face of any patent that may issue from this application.

Respectfully submitted,

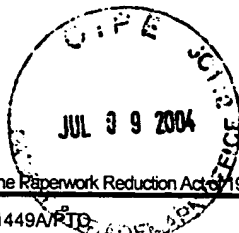
BANNER & WITCOFF, LTD.

Dated: July 9, 2004

By:



Thomas L. Evans, Reg. No. 35,805
1001 G Street, N.W., 11th Floor
Washington, D.C. 20001-4597
Tel: (202) 824-3000
Fax: (202) 824-3001



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Substitute for form 1449A/PTO

**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Sheet 1 of 1

Complete if Known

Application Number	10/099,685
Filing Date	March 14, 2002
First Named Inventor	Daniel R. Potter et al.
Art Unit	3627
Examiner Name	Andrew J. Rudy
Attorney Docket Number	005127.00033

U.S. PATENT DOCUMENTS

Examiner Initials *	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number - Kind Code ² (if known)			
		US- 4,800,657	01-31-1989	Brown	
		US- 5,206,804	04-27-1993	Theis et al.	
		US- 5,361,133	11-01-1994	Brown et al.	
		US- 5,500,802	03-19-1996	Morris et al.	
		US- 6,449,878 B1	09-17-2002	Lyden	
		US- 6,519,876 B1	02-18-2003	Geer et al.	

NON PATENT LITERATURE DOCUMENTS

Examiner Initials *	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		"Custom Fit Footwear," www.digitoe.com , 1984-Present Digitoe, Inc., 4 pages	
		"Nikexpress Direct Sales over the Internet Expected to Reach 30% of Total Athletic Footwear Sales by Year 2003, The New York Times, September 23, 1999, 1 page	
		customatix.com, shoes designed by your, u.s. men's measuring machine, (date unknown, but prior to filing of this application), 1 page	
		customatix.com, shoes designed by your, u.s. women's measuring machine, (date unknown, but prior to filing of this application), 1 page	

Examiner Signature		Date Considered	
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 120 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450; Alexandria, VA 22313-1450.

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